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MEMO ENDORSED

JARED J. SCHARF

ADAM L. SCHARF *

*NY, NJ BARS

July 24, 2008

Honorable Kenneth M. Karas
United States District Judge
United States Courthouse
300 Quarropas Street
White Plains, New York 10601

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Re: *United States v. Elia*
Docket No. 07 Cr. 543 (KMK)

Defendant Yehezkel Elia respectfully submits this letter to request permission for leave to file out of time a motion for a new trial pursuant to Rule 33(a) and (b)(2), Federal Rules of Criminal Procedure.

Our motion would be based upon unbalanced jury instructions regarding method of accounting and on insufficiency of evidence. The Court never gave the jury instruction the defense submitted with respect to the method of accounting.

Finally, we renew the arguments we raised at the end of the government's case-in-chief and at the close of all the evidence, pursuant to Rule 29, Fed. R. Crim. Proc.

Due to the above-mentioned reasons, the defense respectfully requests that leave be granted to file a motion pursuant to Rule 33 out of time

Thank you very much.

Respectfully,

Jared J. Scharf

*Mr. Elia has 30 days
to file his Rule 33 motions.*

cc: Cynthia K. Dunne, Esq.
Joseph A. Vita, Esq.

So ordered;

[Signature] *7/28/08*